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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Situation of human rights in Nigeria

Report submitted by the Special Rapporteur of the Commission on Human Rights, Mr. Soli Jehangir Sorabjee, pursuant to Commission resolution 1997/53

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Introduction

1. At its fifty-fourth session, the Commission on Human Rights adopted resolution 1998/64 in which it extended for a further year the mandate of the Special Rapporteur as contained in its resolution 1997/53. This mandate is to establish direct contacts with the authorities and the people of Nigeria and to report to the General Assembly and to the Commission on the basis of any information which might be gathered, and to keep a gender perspective in mind when seeking and analysing information. In resolution 1998/64, endorsed by the Economic and Social Council in its decision 1998/262, the Commission requested the Special Rapporteur to submit an interim report to the General Assembly at its fifty-third session (see A/53/366) and to report to it at its fifty-fifth session. The present report is submitted in response to that request.

2. The General Assembly, at its fifty-third session, adopted resolution 53/161, entitled "Situation of human rights in Nigeria", without a vote. In that resolution, the General Assembly welcomed the announcement by General Abdul-Salami Abubakar of a new programme of transition to civilian rule and noted with satisfaction the commitment of the Government of Nigeria to restore fully democracy, the rule of law and respect for human rights; took note with satisfaction of the concrete steps taken to date to implement the transitional programme and looked forward to further measures in that regard; expressed its full support to the Government of Nigeria in the important process of building a peaceful and stable Nigeria rooted in the rule of law, democracy and respect for human rights; welcomed the fact that the Government of Nigeria was reviewing the remaining decrees and urged it to repeal urgently those which had an impact on the fundamental human rights of its citizens; encouraged all sectors of Nigerian society to participate actively and constructively in the process of democratization and the re-establishment of civilian rule; noted with satisfaction the establishment of the Independent National Electoral Commission and the issuance of a detailed timetable for the election process, to be completed with the holding of presidential elections on 27 February 1999 and the handing over to a civilian government on 29 May 1999; welcomed the invitations extended by the Government of Nigeria to the United Nations, the Organization of African Unity, the Commonwealth and the European Union to provide electoral assistance and to observe the elections at all levels in order to ensure the credibility of the electoral process; welcomed the declared commitment of the Government of Nigeria to protect freedom of expression, in particular freedom of the press, and noted with interest the first steps taken to reform laws governing the media; welcomed the release of political prisoners, including the 20 detainees from Ogoni and expressed the hope for swift clarification of remaining pending cases; stressed that the establishment and strengthening of national structures and institutions in the field of human rights were of the utmost importance for the promotion and protection of human rights in Nigeria; commended the National Human Rights Commission of Nigeria for its important work and encouraged the Government of Nigeria to provide the Commission with adequate resources and to fully respect its independence; called upon all States and the organizations of the United Nations system to support generously the ongoing transitional process in Nigeria, in particular the electoral process and the strengthening of national capacity in the field of human rights, and to respond positively to requests for technical assistance and advisory

services; welcomed the decision of the European Union, the Commonwealth and the Government of the United States of America to start lifting sanctions on Nigeria in the light of the progress made towards the restoration of democratic government and respect for human rights; called upon the Government of Nigeria to abide by its freely undertaken obligations under the International Covenants on Human Rights and other human rights instruments in the implementation of the transitional programme and beyond; and called upon the Government of Nigeria to follow up the recommendations contained in the interim report of the Special Rapporteur.

Activities of the Special Rapporteur

3. As outlined in paragraphs 5 to 12 of his report to the General Assembly, the Special Rapporteur had been unable to secure approval from the Government of Nigeria for an *in situ* mission from the beginning of his mandate until September 1998. However, by letter dated 16 September 1998, the Government of Nigeria finally extended an invitation to the Special Rapporteur to undertake a mission to Nigeria. Consequently, the Special Rapporteur visited Nigeria from 23 November to 1 December 1998, accompanied by two staff members of the Office of the High Commissioner for Human Rights. The delegation had discussions with a wide range of individuals, including government officials, representatives of non-governmental organizations and individuals from civil society.

The current human rights situation

4. After assuming power in June 1998, General Abdul-Salami Abubakar committed himself and his government to a transition programme that would lead the country to civilian rule in May 1999. General Abubakar has released political prisoners, lifted the ban on party-politics, made declarations on economic reform and a privatization programme, removed internal security troops in Ogoni and adopted a policy of rapprochement with the international community. These measures, listed in paragraphs 13 to 18 of the interim report to the General Assembly (A/53/366), have had a visibly positive effect on the political atmosphere in the country and signify an era of hope for Nigeria.

Constitutional guarantees

5. The importance of a genuine, transparent, democratic and widely participatory process of constitution-making is apparent, given Nigeria's history. In September 1998, the 1995 draft constitution, which is to provide the constitutional framework in the post-transition period, was published and circulated. Following its debate, which is currently being coordinated by the Constitutional Debate Coordinating Committee (CDCC), it is to be approved by the Provisional Ruling Council. The Special Rapporteur is of the view that the promulgation of the Constitution should involve representatives of a broad cross-section of society, of which the military is a component, rather than be entrusted to the Provisional Ruling Council, a military entity. Such a process would enhance its democratic legitimacy.

6. There are two predominant views on the constitutional process in Nigeria. One holds that the 1995 draft constitution is seriously flawed owing to the fact that it was drafted by a group of individuals whose representativeness of Nigerian society as a whole has been questioned. 1/ The second view is that, in spite of the flaws in the mechanisms by which the draft was arrived at, Nigerians can objectively and constructively examine the draft and delete, introduce or modify provisions as they judge it desirable for the proper rule of law in Nigeria. The Special Rapporteur has also taken note of other views. Many Nigerians feel that under no circumstances should any option be pursued which may impede the deadline of 29 May 1999 set for the current transition programme. At the same time, the serious structural and constitutional issues in a multi-ethnic, multi-religious and pluralistic setting such as Nigeria can only reinforce the importance of a broad scope and ample time period for the constitutional debate.

7. Several individuals have proposed a form of compromise whereby the outcome of the present deliberations on the 1995 draft constitution would be accepted as a transitional constitution under which Nigeria should be governed until a "National Constituent Assembly" can be organized after civilian rule has returned. During the Rapporteur's visit, many individuals expressed concern at the fact that political parties were campaigning for elections without truly clear constitutional guidelines. For this reason, many local institutions of civil society had embarked on independent constitutional conferences aimed at producing their own critique of the 1995 draft constitution whilst developing suggestions for further provisions. Several such conferences took place (including one in Abuja organized by national human rights organizations and one in Kaduna organized by a coalition of civil society organizations). Another conference, the Conference of Nationalities, held at the end of November 1998, examined institutional mechanisms for the management of ethnic, regional and religious relations, as well as the institutional relationship between the federal, state and local authorities. The Nigerian Bar Association established a 25-member Committee on the National Political Transition (comprising 10 Senior Advocates of Nigeria (SAN), four state Attorneys-General and 11 other legal practitioners) to examine the provisions of the 1995 draft constitution and make its views known to the Constitutional Debate Coordinating Committee (CDCC). These conferences and initiatives have generated many ideas on how to strengthen constitutional rule in the country, but it will be important that the issues addressed by the various conferences are collated in a systematic manner with a view to distilling what is feasible and what is desirable, in order to engage the Government and the political parties in a full and frank dialogue over constitutional matters.

8. The Special Rapporteur holds that the atmosphere of free debate and expression of divergent views has so far been commendable and constitutes a good sign for future democratic governance. One constitutional point which demands serious attention is the necessity of constitutional provisions designed to protect the rights of the girl child and women citizens in general within the Nigerian traditional, cultural and religious context. This issue is addressed under the section on women's rights, below.

The judiciary

9. Several positive developments with respect to the judiciary have occurred since the Special Rapporteur submitted his interim report to the General Assembly. On 25 November 1998, for the first time in 19 years, the Supreme Court acquired its full complement of justices, with the appointment of six new justices. The number has thereby been brought to 15 in addition the Chief Justice of Nigeria (as provided for by the 1979 Constitution of th Federal Republic of Nigeria). In addition, 24 new justices were appointed t the Court of Appeal by the Provisional Ruling Council, bringing the total number of Justices of the Court of Appeal to 50 (including the President), i full capacity in accordance with the Court of Appeal Act. These development are welcome, given that the dearth of justices in the past had impeded the judicial process and due dispensation of justice.

10. General Abubakar's promise to ensure the financial independence of the judiciary by providing it with funds from the consolidated revenue is a further sign of the substantial efforts to strengthen the judicial system in Nigeria. However, the continued existence of ouster clauses in a number of decrees perpetuates the lack of independence of the judiciary, as lamented b the Special Rapporteur in his previous report. The Special Rapporteur reiterated with many officials during his mission the necessity of abrogatin ouster clauses if the rule of law is to be reinstated in Nigeria. One way o doing so would be the repeal of the numerous decrees in which they are contained, including the State Security (Detention of Persons) Decree No. 2 of 1984, the Robbery and Firearms (Special Provisions) Decree No. 5 of 1984, the Treason and Other Offences (Special Military Tribunal) Decree No. 1 of 1986, the Treason and Treasonable Offences Decree No. 29 of 1993, the Civ Disturbances (Special Tribunal) Decree No. 2 of 1987, the Public Officers (Forfeiture of Assets) Decree No. 8 of 1991, and the Federal Military Government (Supremacy and Enforcement of Powers) Decree No. 12 of 1994.

11. In a letter dated 30 November 1998 responding to the Special Rapporteur's written inquiries of 25 November 1998, the Special Adviser to t Head of State, Professor A.H. Yadudu, stated, "... it is pertinent to observ further that it is conventional for a military administration before disengaging and handing over to the civilian administration to repeal all decrees which are incompatible with the general tenor of the constitution which will usher in the democratically-elected civilian administration. It is therefore envisaged that all the foregoing decrees and others will accordingly be repealed on 29 May 1999".

Right to liberty and security of person

12. Since the coming to power of General Abubakar, hundreds of political detainees who were incarcerated by General Sani Abacha have been released. The Special Rapporteur was given assurances by the Government during his vis that there were no longer any political prisoners in Nigeria.

13. However, it is essential that General Abubakar repeal the many repressive decrees allowing detention without trial, suspending constitution guarantees of human rights, setting up special tribunals to try particular offences, and barring the courts from considering executive acts. While the

Abubakar Government is not currently utilizing many of these decrees, Nigerian citizens live under the threat of their application so long as they remain in force, and political activity may thus be restricted. Among the most significant decrees are the following: the State Security (Detention of Persons) Decree No. 2 of 1984, permitting indefinite detention on security grounds; the Treason and Other Offences (Special Military Tribunal) Decree No. 1 of 1986 and the Treasonable Offences Decree No. 29 of 1993, under which the alleged coup-plotters of 1995 and 1997 were tried, which define treason widely and provide for trial before tribunals which do not respect international standards of due process; the Public Officers (Protection Against False Accusation) Decree No. 4 of 1984, which prohibits "false accusations" against government officials; and the Civil Disturbances (Special Military Tribunal) Decree No. 2 of 1987, under which Ken Saro-Wiwa and his co-defendants were tried and executed; the Robbery and Firearms (Special Provisions) Decree No. 5 of 1984 which gives the Military Administrator powers to establish a robbery and firearms tribunal to try cases involving robbery and violence; the Federal Military Government (Supremacy and Enforcement of Powers) Decree No. 12 of 1994; the Legal Practitioners (Amendment) Decree No. 21 of 1994 (which empowers the Body of Benchers to dissolve the elected officers of the Nigerian Bar Association, and which the African Commission on Human and People's Rights Decree held to be in violation of article 10 of the African Charter).

14. The Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Decree No. 18 of 1994 empowers the Failed Bank Tribunal to recover debts owed to failed banks and try all bank-related offences. The trial judge cannot exercise any discretion in granting bail to suspects. In order to secure bail, the accused is required (under section 267 thereof) to deposit half of the amount alleged in the offence and provide surety for the balance of the amount, as well as submit his passport to the Tribunal for the duration of the trial. This amounts to a violation of the right to presumption of innocence guaranteed by the Constitution, and furthermore to a violation of the right to liberty and security of person.

15. The Decree also contains a provision whereby if a debtor or an accused person is not in Nigeria s/he can be tried in absentia. Relations of bank executives can be held to be accountable notwithstanding their innocence, since section 29 of the Decree defines a director of a bank to include "a wife, husband, father, mother, son or daughter of a director". At least 150 executives of "failed banks" remain in detention without charge. General Abubakar has promised to review these cases.

16. In positive developments, the Government has withdrawn both Operation Sweep from Lagos and the Rivers State Internal Security Task Force from Ogoniland, answering long-standing calls from critics in Nigeria and internationally for their withdrawal. However, in the oil producing areas of the Niger Delta, police and soldiers still allegedly respond to protests against oil company activities with arbitrary arrests, beatings and sometimes killings.

Right to a fair trial

17. Tribunals established by decree bypass the regular judicial system and thereby undermine the integrity of the judicial process, resulting in denial of due process and violating article 14 of the International Covenant on Civ and Political Rights and article 7 of the African Charter guaranteeing the right to a fair trial. For example, the defects of tribunals established under the Civil Disturbances (Special Tribunal) Decree No. 2 of 1987 were recorded in the report of the Secretary-General's fact-finding mission (A/50/960, annex I, paras. 40-55). That such tribunals are not impartial or independent has been affirmed by two decisions of the African Commission. T Secretary-General's fact-finding mission recommended that the Government of Nigeria repeal the Civil Disturbances (Special Tribunal) Decree so that offences of this type are tried by the ordinary criminal courts.

18. While the Special Rapporteur welcomes the release of several prisoners who were serving sentences after trial by military tribunals and by processe which fell short of international fair trial guarantees, during his visit he expressed continued concern that others convicted in connection with the alleged 1990, 1995 and 1997 coup plots remain incarcerated, including the civilian Niran Malaolu, a journalist convicted of involvement in the 1997 co plot, and Rebecca Ikpe, the relative of an officer convicted in the 1995 cou These individuals should either be released unconditionally or retried befor independent tribunals which adhere to international norms of due process. This recommendation also applies to General Oladipo Diya and the military an civilian prisoners convicted for the alleged 1997 coup plot, whose death sentences were commuted and prison sentences reduced in July 1998 by the Provisional Ruling Council.

Right to dignity and humane treatment while in detention

19. A general consensus exists in Nigeria that the problems of its prisons are enormous. These range from overcrowding and congestion to poor living conditions for prisoners (including inadequate shelter, clothing and medical services, leading to deaths in prison), and lack of adequate rehabilitation and training for prisoners.

20. A National Committee on Prison Reforms and Decongestion has been established as the result of recommendations made to the Federal Government the National Commission for Human Rights. The Head of State also establishe in September 1998 a National Task Force on Prison Decongestion and Penal Reform, with a mandate to look into all cases of prisoners in Nigeria, in order to recommend those to be released to facilitate prison decongestion, a to draw up a comprehensive penal reform package. The Task Force consists of the Minister of Internal Affairs, the Attorney-General, the Controller-Gener of Prisons, the Chairman and Executive Secretary of the National Human Right Commission, the Legal Adviser to the Head of State and the Representative of the Presidency on Political Affairs, and NGOs (the Prisoners Rehabilitation and Welfare Action (PRAWA) and the Civil Liberties Organization (CLO)). The Task Force was given a lifespan of six months. It is hoped that concrete measures and results will begin to be perceptible in this time-period.

21. On the crisis of overpopulation in prisons, the Controller-General of Prisons maintains that their overall capacity is 36,375, while the total inmate population at present is about 47,387. He admitted that management has an uphill task. The task is further complicated by the fact that over 60 per cent of the inmate population are awaiting trial.

22. Prolonged detention periods without trial constitute one of the gravest abuses of human rights in this field. A speedy trial is implicit in the concept of a fair trial. The Special Rapporteur spoke with several detainees in Kaduna and Ikoyi (Lagos) who had been awaiting trial for long periods, some up to seven years. Such detainees included individuals being held as suspects under the robbery and firearms decree. The reasons for delays include repeated adjournments, judicial vacancies, transfers and lack of preparation. The Special Rapporteur met Sheikh Ibrahim El Zak-Zaky in Kaduna prison. Mr. Zak-Zaky is a Muslim leader entering his third year in detention. He is charged with publication of materials capable of undermining the security of the nation. Several of his associates are detained with him.

23. Local government administrations in Lagos and Kaduna states have begun commendable measures to alleviate this difficulty by having the chief judge travel to the different prisons in the state to hear prisoners' cases, instead of waiting for prisoners to be brought to the central courts. In Lagos, the local government has actually embarked on a project of building courts on the same premises where the prison is situated. It was also a positive sign to note that no cases of solitary confinement were reported, denoting a possible discontinuation of that inhuman practice.

24. According to discussions with both the judiciary and prison officials, it is clear that the problems affecting prisoners in this regard relate more to the fact that there are not enough judges and magistrates to handle cases, and even where some of these did apply themselves to their work, the material facilities at their disposal are lamentably inadequate. The volume of work calls for more and up-to-date equipment and staff skills. This need to modernize is borne out by the example of the prison in Kaduna, which was constructed in 1921 and yet has to cater for the state's needs of today.

25. In addition to the measures mentioned above. The Criminal Justice Release from Custody (Special Provisions) Act has also made it possible for some convicts to be released.

Freedom of expression, association and assembly

26. Respect for the rights to freedom of expression, association and assembly is crucial to a credible political process and to a democracy based upon the rule of law. Parties and candidates must be able to campaign and hold rallies freely, and journalists must be able to comment on the process without fear of harassment. While it is a matter of satisfaction that since General Abubakar's accession no journalists have been detained, several remaining restrictions must be lifted for the transition programme to be credible. General Abubakar should repeal all decrees restricting freedom of expression and of the press, including the Offensive Publications (Proscription) Decree No. 35 of 1993 and the Newspapers Decree No. 43 of 1993.

The 1995 draft constitution includes provision for a "mass media commission" to regulate the media, which raises concerns about the possibility of future restrictions on critical reporting under this provision.

27. The repeal in August 1998 of restrictive Trade Union Decrees Nos. 9 and 10 marked a break from a history of constraint on organized labour and professional associations. During his visit, the Special Rapporteur expresse to the Minister of Labour the hope that the Government would review trade union decrees remaining in force, including Decree No. 4 (ordering the merging of Nigerian Labour Congress (NLC) affiliates from 41 industrial union into 29 unions and making it a criminal offence for any union other than the 29 listed in the decree to belong to the NLC), Decree No. 26 of 1996 (restricting those who can be elected to union office to union members employed in the industry or sector the union represents) and Decree No. 29 of 1996 (annulling international affiliation and making all international affiliation subject to prior government approval). The Special Rapporteur wa assured by the Minister of Labour that these decrees were in review. Furthermore, in his letter of 30 November 1998, Professor A.H. Yadudu stated that some decrees, for instance Decrees Nos. 4, 26 and 29 of 1996, may be repealed before 29 May 1999.

28. It is pertinent to note in this regard that the ILO Direct Contacts mission also concluded:

> "It is clear that measures need to be taken in the immediate future to repeal Decrees Nos. 4, 26 and 29 in the light of the comments made by the ILO supervisory bodies, in order to bring the legislation into greater conformity with freedom of association principles and standards. Such rapid action to eliminate clear violations of freedom of association remaining in law would demonstrate to the Governing Body continuing determination on the part of the Government to take all necessary measures in order to ensure full respect for trade union rights in Nigeria."

Freedom of movement

29. The right to freedom of movement is gravely undermined and susceptible to abuse because of the absence of any statutory provisions stipulating the grounds on which a citizen's passport may be refused, impounded or cancelled.

Right of every citizen to vote and to be elected in genuine periodic elections

30. General Abubakar continues to fulfil his undertakings in this regard. Different reports and conclusions so far on the recent elections held on 5 December 1998 are a source of encouragement. Indeed the Commonwealth Secretary-General, Mr. Emeka Anyaoku has "congratulated the Nigerian Election Commission". Described as peaceful and professional 2/ by the United States State Department, the elections recorded a high turnout, the peoples' enthusiasm reflected in the large number of voters at polling stations, and calm prevailed over most of the country, with only isolated violent incident

31. The Special Rapporteur was witness to a lively debate over the age requirements for contenders to certain electoral posts and party registration conditions in Nigeria today. New ground was being broken as amendments to earlier conditions were adopted. Thus, in the course of a special session of discussions, the different party representatives agreed to revise candidate age qualifications downwards. On 21 November the Chairman of the Independent National Electoral Commission revealed that the new conditions for a party to register were for it to obtain 5 per cent of expressed votes in at least 24 states and accepted the parties' representatives demands that the lowest age limit for a candidate running for council chairmanship be reduced from 35 to 30.

Women's rights

32. Nigeria ratified the Convention on the Elimination of Discrimination Against Women in 1989, although its implementation had not effectively taken place before the adoption of the Beijing Declaration and Platform for Action in 1995. One of the steps taken by the Government of Nigeria in this regard has been to carry out a national baseline survey of harmful traditional practices (HTPs) with a view to providing relevant and accurate data for the development of national, State and local plans of action. HTPs are traditional, cultural and religious practices handed down through succeeding generations which are often detrimental to the health and psychological and social well-being of women and girls. These practices also violate personal fundamental human rights for the girl children or women concerned. HTPs include female genital mutilation, early marriage and the attendant pregnancies which cause Vesico Vagina Fistula (VVF), widowhood practices, discriminatory inheritance and property laws, bride price, betrothal rights, parental consent, discriminatory divorce laws, lack of contractual capacity, wife battering, male child preference, and unequal access to education and health care. Regrettably, these practices operate in parallel to international provisions for the protection of women's rights.

33. The slow pace in eradicating HTPs in Nigeria is also a reflection of the absence of government policy on this aspect of gender inequality. After discussions with women leaders and personalities from the various parts of the country, the Special Rapporteur realized that the problems are partly due to the difficulty of changing behaviour that adversely affects the rights of women. The task is one of first changing attitudes, and this requires advocacy and education. Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women states:

> "States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy eliminating discrimination against women, and to this end, undertake: ... to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women."

Article 5 provides that:

> "States Parties shall take all appropriate measures: to modify the social and cultural patterns of conduct for men and women, with a view

to achieving the elimination of prejudices and customary and all other practices which are based on the ideal of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."

34. The highest prevalence of female genital mutilation is said to be in the states of the south-west (Osun, Oyo and Ondo) and Edo. The states in the south-east have a comparatively lower prevalence of this phenomenon although they have a higher rate than that observed in the northern zones. The states in the southern zone also have significantly high rates. According to the Dean of the Faculty of Medicine at the University of Benin, reproductive health care for women is poor, leading to 50,000 deaths among women per year related to pregnancy and childbirth.

35. Grossly unfair treatment and practices in the area of inheritance rights which result from traditions, culture or religion must be addressed in order to enable women to enjoy their rights as equal citizens with men.

36. Formal banking procedures and regulations exist which require a woman to have her husband's or another male relative's signature in addition to her own before she can qualify to obtain a loan. There are no comparable conditions imposed on male customers.

37. The consequences of the current imbalance in gender treatment and practices are also evidenced in the literacy rate, which for women stands at 47 per cent compared to 69 per cent for the male population. Statistics indicate that more than two thirds of Nigerian women are illiterate. Stereotyping of women's roles also has consequences for women's rights to education. Because of the relatively high cost of education, many parents with limited means prefer to educate male rather than female children.

38. In the workplace, cultural and gender stereotypes in hiring practices continue to relegate women to second-class positions. In contravention of articles 2 and 11 of the Convention on the Elimination of All Forms of Discrimination Against Women, women suffer discrimination in access to employment, promotion and equal pay for work of equal value. Certain professions (nurses, junior teachers, secretaries) continue to consist predominantly of women, while others exclude them (underground mining). Pregnancy continues to be a threat to career advancement.

39. Discrimination is evidenced in Nigerian Police Regulation 124, which requires women officers to seek the permission of their state Police Commissioners before marrying. Permission may be withheld if the intended spouse is deemed to be of unfavourable character, or if the woman officer has served for less than three years. 3/ Male officers are not subject to this regulation. An unequal tax structure gives child relief only to men, based on the assumption that the man is solely responsible for meeting the material needs of the family.

40. About 52 per cent of Nigerian women live below the poverty line, while 70 per cent of women live and work in the rural areas, mostly contributing to the domestic economy, as farmers, petty traders, domestic workers and home-makers. Their work is unrecognized and unrewarded.

Community lending banks frequently disburse loans to women only through their husbands. Women's access to credit is restricted by low income, lack of collateral or property, illiteracy and institutionalized discrimination and stereotyping. The Government has done little to abrogate these discriminatory practices.

41. Early and forced marriages are legally protected in some parts of Nigeria 4/ while legislation continues to permit wife chastisement.

Children's rights

42. Although Nigeria was one of the first countries to sign the Convention on the Rights of the Child in 1991, its implementation in a country with such significant cultural differences remains a great challenge. The foregoing paragraphs have shown the dire need to put in place legislation to safeguard the girl child's rights, given the existing legal, social and cultural systems. The situation is equally grave with regard to child labour. Information collected indicates that such exploitation remains a common practice in Nigeria, mostly in the south-eastern region. Some outstanding and concerned academics have spoken out over the issue in Abuja, calling for the "empowerment of child workers" in the country with a view to finding ways of reducing their burden of work and to ensure that children receive sustenance so that those below the poverty line are not "over-used".

43. Against the above background, the Special Rapporteur was glad to learn of the joint Federal Government of Nigeria-UNICEF Programme of Cooperation for the period 1997-2001 aimed at reducing infant, under-five and maternal mortality, and chronic under-nutrition; improving access to universal basic education, safe drinking water; and creating a healthy environment within a children and women's rights framework. The world community is urged to devise ways of supporting the Government of Nigeria in this undertaking.

Economic, social and cultural rights

44. Putting in place a policy which reflects greater concern for fundamental economic, social and cultural rights presents the Government with a daunting challenge. In the present situation the majority of the population do not have access to health facilities, education, food, shelter, or basic amenities such as safe water. The majority of Nigerians live well below decent social thresholds. One of the main reasons for this situation is the non-observance of legal safeguards of the right of people to work and appropriate remuneration. Although Nigeria has ratified the International Covenant on Economic Social and Cultural Rights and the African Charter on Human and People's Rights (Ratification and Enforcement Act, cap. 10, Laws of the Federation 1990), the arbitrary habits and practices of past governments still shackle State institutions and lead to serious abuses.

45. Starting in April 1998, both federal and state governments embarked on mass retrenchment of civil servants under laws which conferred wide discretionary power on the Government and disallowed court action in this respect. The Preamble to the enabling law, the Public Officers (Special Provisions) Act, cap. 381, Laws of the Federation 1990, sums up the object of the Act as being "An Act to provide for the dismissal, removal or compulsory

retirement of certain public officers for diverse reasons; and to prevent civil proceedings being instituted against such action". By June 1998, over 40,000 civil servants had lost their jobs in the federal civil service. The retrenchment exercise was part of a process of deliberately reducing the federal civil service workforce by about 30 per cent. Similarly, the Nigeri Postal Service (NIPOST) had reportedly laid off about almost half of its workforce (10,000 out of 24,000), by the end of May 1998. In the states of Kaduna and Abuja, about 30,000 civil servants reportedly forcefully lost the employment. Those dismissed were denied any form of compensation. Even though General Abubakar's administration has suspended such acts, no employe affected by the retrenchment exercise is known to have been recalled. It ha been brought to the attention of the Special Rapporteur that Mr. Ayodele Akele, chairman of the Lagos State Council of Industrial Unions (COIU) was sacked on 7 October 1998 for calling a strike action to demand th payment by the state government of the revised minimum wage announced by the Federal Government. The Lagos state government justified its act by evoking the Public Officers (Special Provisions) Act cited above.

46. The Special Rapporteur is also concerned about the cases of 22,000 Kaduna state civil servants who were retrenched by the state government following a strike action to demand implementation of a salary review made by the Federal Government, and that of 2,000 Nigerian Security Printing and Minting Company employees dismissed in 1997 for striking in protest at conditions which grossly violated their rights at work. These categories of employees have no legal avenue to challenge the termination of their appointments. The social consequences of the above situation are evident.

47. The Federal Government's attempt in September to reflect prevailing socio-economic realities in its wage structure by announcing enhanced wages for federal civil servants, increasing the minimum wage to 5,200 naira (about $60) was commendable. However, it was subsequently reversed, with a downward adjustment of the basic minimum salary to N1,200, ($15). The Government needs to consider critically whether the salaries paid to people are reasonable to enable them to meet basic needs, including housing, education, food, health, recreation and family support. The Government mus ensure that persons employed by the State receive their pay on time as a matter of right. In this connection, it is hoped that the situation in Imo State, where teachers have not received their salaries for five months, will be rectified as a matter of urgency.

The right to housing

48. Many Nigerians do not have access to adequate housing. Numerous pers are unhoused, or dwell in shacks, slums or dilapidated, dangerous structure While the Government is under an obligation to provide housing under article 11.1 of the International Covenant on Economic, Social and Cultural Rights, much has been largely left to private persons and real-estate developers, making access to housing dependent entirely on the interplay of purely market forces. Although rent control laws exist, they are not enfor in most states of the federation and thus provide ample opportunity for property owners to exploit house seekers.

49. The operation of the existing National Housing Fund (NHF) scheme calls for reinvigoration to improve access to housing through the provision of mortgage loans to individuals. Contributors to the scheme who lost their deposits through the liquidation of their primary mortgage credit institutions should be compensated.

50. Where the Government undertakes housing projects which entail evictions, all measures must be taken to protect the interests and rights of the affected citizens, including compensation and resettlement. The case of the 300,000 Maroko community members rendered homeless in July 1990 should serve as an example never to be repeated. Yet in 1996, some 2,000 people were forcibly evicted from their houses in the Ijora Badiya and Oloye areas by the Lagos state government in order to have drainage channels constructed in the affected areas. Although the drainage project was co-funded by the World Bank, and included provisions for the resettlement and compensation of persons who would be affected by its construction, none of the affected persons in those communities have been compensated or resettled. The Lagos state government in 1997 also forcibly evicted residents of the Eric Moore Road Resettlement Quarters from homes they had occupied for nearly half a century, and demolished the buildings. No compensation or resettlement was provided for those affected either.

51. Other cases of violations of housing rights occurred in June 1998 in the Agodi area of Ibadan, in Oyo state, and in August 1998, in the Kuchingoro area of the Federal Capital Territory. Residents claim they received quit notices ranging from 21 days to the day the evictions were taking place. Those affected have not been rehoused or compensated or resettled.

The right to health

52. Nigeria is a signatory to various international conventions and covenants which recognize the right of all citizens to health, including the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the African Charter on Human and Peoples' Rights. The 1979 Nigerian Constitution provides for "adequate medical and health facilities for all persons" (art. 17 (3)(c)), while the 1995 draft constitution, although not yet in force, goes further to guarantee the right of every citizen to free medical consultation at government-run facilities (art. 18 (3) (d)). However, the right to health, or to the "best attainable state of physical and mental health", 5/ remains largely inaccessible to the majority of Nigerians. Public health infrastructure and facilities are obsolete, while essential health-care equipment is mostly unavailable or in varying states of disrepair. Consultation and treatment in public health institutions, where accessible, are unaffordable for most Nigerians - driving many to resort to self-medication or treatment by medically unqualified persons.

53. The deplorable state of health care in Nigeria is largely due to inadequate allocation of funds to the health sector. In its 1998 budget, the Federal Government allocated 11.93 billion naira to health (4.9 per cent of the total budget). 6/ Given Nigeria's estimated population of 120 million people, this figure represents less than 100 naira ($1.20) expenditure per person for health care delivery in 1988. As a result, basic hospital

consumables, such as cotton wool and syringes, are often unavailable in man hospitals across the country, while erratic power and water supply means th routine medical or surgical procedures are fraught with risk and often resu in casualties. The under-funding of the health sector, a situation which h continued for over a decade, has meant a steady deterioration in health services for a long period and the emigration of professional and highly experienced health practitioners to foreign countries, leaving a dilapidate health care delivery system in Nigeria. This state of affairs is unacceptable. The infant mortality rate in Nigeria has reached 84 per 1,00 and the maternal mortality rate is 800 per 100,000 7/ live births, compared with 70 per thousand and 382 per thousand respectively on average for developing countries.

54. The state of health in Nigeria does not fulfil the Government's obligations under the International Covenant on Economic, Social and Cultur Rights to "create conditions which would assure to all medical service and medical attention in the event of sickness" (art. 12 (d)). Disease prevent policies are effectively lacking across Nigeria, leading to frequent epidemics. The vulnerable populations in slum communities surrounding majo cities, and the rural populace suffer regular pandemics of cholera, dysente and other hygiene-related diseases. Individuals in the oil-producing areas suffer from environmental hazards resulting from oil pollution and gas flaring: respiratory ailments, skin diseases, gastrointestinal disorders, etc. The scarcity and high cost of drugs has bred a thriving, unregulated black market in cheap, dangerous and fake substitutes.

55. Moreover, gross inequality exists in access to health care not only between the rich and the poor in Nigeria, but between rural and urban dwellers. An estimated 95 million Nigerians living in rural areas have no access to orthodox medical care. Not only are health care centres sparse i these areas, but many rural dwellers are poor and cannot afford to consult them. The situation is only marginally better in the urban areas where expanded social and family networks provide support needed by sick people f treatment.

56. Endemic diseases such as malaria and guinea worm persist. If not addressed more effectively through campaigns of prevention, HIV/AIDS will spread more rapidly. Nigeria accounts for 25 per cent of the global spread AIDS in 1998, with over half a million new infections; yet, efforts to educ the public about AIDS prevention and management are insufficient. 8/ The health needs of special or particular groups such as pregnant women, the ag and the disabled, are also neglected. The general perception is that resources which should have been employed in improving the health, living a education standards of the people and furthering their socio-economic right have been diverted by corruption, which has prevented the benefits of vario schemes from reaching the people.

Corruption

57. In its Concluding Observations, the Committee on Economic, Social and Cultural Rights stated that it was "greatly disturbed that 21 per cent of t population of Nigeria live below the poverty line in spite of the country's rich natural resources". It noted with concern that, "due to economic and

administrative mismanagement, corruption, runaway inflation and the rapid devaluation of the naira, Nigeria now ranks among the world's 20 poorest countries" (E/C.12/Add.23, para. 25).

58. These observations underscore the fact that the implementation of fiscal and economic policies by the Government and the use and distribution of national resources are carried out in such a way that most people are deprived of access to basic social and economic rights and opportunities, including access to education, health care, physical and mental integrity, water, food, etc. It is deplorable that this state of affairs has occurred not through natural calamities, but through national waste and mismanagement.

59. Corruption in official circles and mismanagement have both direct and collateral consequences for the enjoyment of social and economic rights and also for civil and political rights. The obligation to "take steps ... to the maximum of ... available resources" 9/ towards the full realization of economic social and cultural rights is seriously and fundamentally undercut by the corrupt diversion of the "available resources" of the State and its consequential effect on the fulfilment of State obligations to citizens.

60. In November 1998, for example, the Federal Government announced that it had recovered over 63 billion naira (nearly US$ 750 million) from the family of the late Head of State, General Sani Abacha, allegedly stolen within one year. Added to the money and other property recovered from the Security Adviser to the late Head of State, the recovered sums amount to about 125 billion naira (US$ 1.4 billion). This amount surpasses the total federal budget for education, health, social welfare, transportation and power generation in two consecutive years (1997 and 1998).

61. Unaccounted federal revenue of about US$ 12.4 billion is still uninvestigated. It is documented as having been received from surplus oil sales in 1991 and was reportedly misappropriated by General Ibrahim Badamosi Babangida, Nigeria's erstwhile military ruler. 10/ Up till now, no charges have been brought against the former Head of State or those who collaborated with him. Also, the Abubakar administration has not investigated widespread allegations of corruption levelled at former and serving State military administrators. By not taking action against these people, the Abubakar Administration condones the crime of corruption and the systematic violations of social and economic rights.

62. As a consequence of the massive misappropriation of national resources, critical service sectors of the nation are in acute dysfunction. Power, water and fuel are in severely short supply and unavailable in many areas of the country, which is forcing many industries and commerces to close down or operate well under their regular capacity (leading to unemployment and underemployment). Many schools, including primary and post-primary institutions, have resorted to imposing various fees and levies on students as a direct result of grossly inadequate funding; this has led to massive withdrawals from school by pupils. Poor funding has also led to massive drifts of experienced and skilled tertiary-level manpower away from educational institutions. Access to health care, as stated above, is largely unavailable for most of the population of the country.

63. Although the new Government of General Abdulsalami Abubakar has indicated that it will uphold transparency and accountability in governance, it has yet to take credible action to substantiate its commitment to make former State officials accountable for their misappropriation of State resources.

64. The relationship between accountability, good governance and respect for human rights is well established and in this vein, the Nigerian Government must take action to end the impunity that has characterized the use of national resources in the past, in order to ensure that public resources are faithfully applied towards improving the lives of the Nigerian people.

The right to development and a satisfactory environment

65. Deep concerns about widespread and severe environmental damage in the River Delta region on account of oil exploration and other operations of the Shell Petroleum Development Company of Nigeria (SPDC) continue. The fact of spillages is not in dispute. However, there is controversy about the causes, namely whether it is on account of human or operational error or on account of sabotage and other acts of vandalism. It is not possible for the Special Rapporteur to determine these contentious factual issues. The Special Rapporteur is of the view that these issues of environmental damage and liability for it, as well as the question of environmental protection, may be more appropriately determined by an independent agency which is mutually agreed upon by the concerned parties. The Movement for the Survival of the Ogoni People (MOSOP) expressed its willingness to cooperate in implementing this proposal when it was suggested by the Special Rapporteur. Shell stated that it had no objections to the government setting up an independent investigation, but that it should not cover only the Ogoni area, but should include the entire Niger Delta, in order that Ogoni was not treated in isolation.

66. The SPDC practice of providing its security personnel with the same uniform as that of the Nigerian police has given rise to grave apprehensions and allegations that the Nigerian authorities have put a mobile police force at the disposal of SPDC. The Special Rapporteur is of the view that it would be advisable if this practice of providing the same uniform is discontinued by SPDC.

67. SPDC has initiated some developmental projects. The Special Rapporteur feels that their range should be expanded, and that they should be undertaken in consultation with the communities concerned.

68. There have been frequent complaints regarding the inadequacy of the compensation paid for the land and crops of landowners acquired by the oil companies, and the delays in payment. The rates for compensation are specified by the Department of Petroleum Resources (DPR). DPR instituted a major review of the rates involving valuers, community leaders, local government chairmen and others. These rates are yet to be released. One grievance was that the landlords have no voice of representation in the matter of fixation of rates for compensation. An exclusive independent judicial mechanism charged with the mandate of early disposal of compensation claims would go a long way towards meeting these grievances.

The National Commission on Human Rights

69. One of the significant steps taken by General Abubakar's administration has been to allow greater initiatives and autonomy to the National Commission on Human Rights. During the two years of its functioning, under the Chairmanship of Justice Paul K. Nwokedi, this body has acted as a check on the State's disregard and abuses of fundamental human rights as enshrined in the Nigerian Constitution and laws, and as stipulated in the relevant international human rights instruments to which Nigeria is a party.

70. Operating in a difficult political environment and with limited material resources, the Commission has nevertheless laid a foundation upon which much remains to be built. In discussions with the members of the Commission, the Special Rapporteur was presented with an elaborate plan of action in the field of the promotion of human rights through seminars, workshops, special training programmes for specific State actors such as judges, police prisons officials and teachers. The action is also aimed at targeting civil society in general to reach students as well as the general public. It is worth noting that this institution has projects that go beyond national objectives and seek to spread the human rights awareness campaign at a regional level, using Nigeria as a starting point.

71. Some of the Commission's achievements include recommendations presented to the Federal Government following a survey by Commission members of the inhumane conditions in prisons, which resulted in the establishment by the Government of Committees for prisons reform and prison decongestion. In 1997, four important seminars on the subject of human rights were held in Abuja, Kano, Lafiya and Abuja. Training workshops took place in several other main towns in the country.

72. In view of the above efforts, the Special Rapporteur hopes that the positive initiatives of the National Commission on Human rights are given support in the forms that needs assessment undertaken in conjunction with the Nigerian authorities would show to be necessary. The needs are likely to include expertise in human rights education and materials to expand the commission's activities throughout the country, especially given that it currently has offices in only 6 out of 36 states. The democratic civilian administration which will come to power in May 1999 should ensure adequate structural and financial independence for the commission.

Conclusions

73. There is a noticeable change in the political atmosphere and in the attitude of the administration.

74. There is transparency and willingness to open up to outside agencies and persons and general acceptance of criticism.

75. The transition process is well on course. The current trend reflects sincerity and seriousness about fulfilling the commitment to return to civilian rule and to restore democracy.

76. The Independent National Electoral Commission, headed by Justice Ephraim Akpata, is actively engaged in ensuring that the oncoming elections are free and fair.

77. The Constitutional Debate Coordinating Committee (CDCC) headed by Justice Nike Tobe is seriously engaged in the task of framing a constitution before the hand-over to civilian rule on 29 May 1999 and for that purpose has invited the views of various persons and parties. There is an ongoing debate, marked by divergence of views, which are freely and forthrightly expressed.

78. The human rights situation in the country has improved. Several persons have been released. No arrests or detention under Decree 2/1984 have been reported since 9 June 1998.

79. Some decrees restricting freedom of assembly and association have been repealed, for example Decrees No. 9 and 10 of 1994 and Decree No. 24 of 1996.

80. However certain restrictive Decrees have not yet been repealed, including Decree No. 4 (which ordered the merging of NLC affiliates from 41 industrial unions into 29 unions and made it a criminal offence for any union other than the 29 listed in the decree to belong to the NLC), Decree No. 26 of 1996 (which restricts those who can be elected to union office to union members employed in the industry or sector the union represents) and Decree No. 29 of 1996 (which annulled existing international affiliation and made all international affiliation subject to prior government approval).

81. A distressing feature is the continued operation of Decree 2/94, which permits detention without trial for an indefinite period.

82. Decree 1/96 and other decrees which permit determination of rights and obligations by military tribunals or by tribunals which have a military presence, do not guarantee free trial.

83. Decree 2/94 and ouster clauses in various decrees facilitate violation of human rights and are still operative. They are incompatible with the rule of law.

84. Not all the alleged coup-plotters of the 1995 and 1997 alleged coups have been released, even though their conviction was by a flawed process before a tribunal which lacked the requisite independence and impartiality envisaged by article 14 of the International Convenant on Civil and Political Rights and article 7 of the African Charter.

85. Numerous persons are awaiting trial, in some cases for petty offences. There have been welcome judicial initiatives to release persons who have been in jail for periods longer than the period to which they were sentenced upon conviction, and in other deserving cases. There are proposals to have courts in the vicinity of prisons in order to ensure speedy trials.

86. Some aspects of the Failed Bank Decree are disturbing: (a) Stringent bail conditions which are virtually incapable of compliance; (b) imposition of liability in certain cases on persons unconnected with the suspected banking fraud if the primary offender absconds or is not available. This is tantamount to hostage taking.

87. The appointment of justices to vacancies in the Supreme Court and the granting of financial autonomy to the Supreme Court are encouraging developments.

88. Prison conditions are still harsh and do not conform to the United Nations Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles for the Treatment of Prisoners.

89. Improvements have been made in women's participation in the political process and women have been more included in public affairs. There is an increase in the number of female judges. The practice of female genital mutilation continues and the Government has not taken sufficient measures to address this practice. There is no determination to repeal or modify laws which operate in a discriminatory manner against women, owing to the religious complexity of the issues involved. Discriminatory practices against women continue unabated (see paras. 35-41 above).

90. The country is facing severe problems of infrastructure. There is lack of essential health services in rural and underdeveloped urban areas.

91. There is continued malnutrition amongst children. Almost 30 per cent of Nigerian children suffer from malnutrition and its damaging consequences (see E/C.12/1/Add.23).

92. The National Human Rights Commission is doing commendable work in the field of human rights. It has undertaken several important initiatives, including a study of prison conditions, and human rights promotional activities in conjunction with NGOs, and in the field of human rights education. The Commission is likely to play an important role in the promotion and protection of human rights in the transition to civilian rule. The Commission, if strengthened by making it independent and expanding its range of activities, could contribute meaningfully to building a culture of human rights in Nigeria.

Recommendations

93. The Government should do everything possible to maintain the present momentum of transfer to civilian rule and restoration of democracy, and the atmosphere of transparency.

94. Steps should be taken to ensure that all stages of the electoral process conform to international standards on the enjoyment of universal and equal suffrage guaranteeing the free expression of the will of the electors. In addition to responding to the invitation to international observers to monitor all stages of the elections, the international community should react positively to any other requests for technical assistance or expertise at any stage of the electoral and transitional processes.

95. All persons detained without trial should be released immediately or forthwith brought to trial before regular courts.

96. All persons serving sentences after trial by military tribunals and by processes which fell short of international guarantees for a fair trial shoul be released.

97. There should be no selective release of convicted alleged coup plotters All persons convicted for the alleged 1995 or 1997 coup should be released.

98. State Security (Detention of Persons) Decree No. 2 of 1984 ought to be repealed.

99. Clauses in various decrees which oust the jurisdiction of the courts should be deleted.

100. Determination of the rights and obligations of persons and in particula the determination of any criminal charge against a person should be made by regular courts of law. All legal proceedings must be conducted in public before independent courts whose proceedings conform to international norms of due process.

101. All repressive decrees which infringe freedom of expression and freedom of the press should be repealed or, in any event, amended so as to ensure tha no unreasonable or disproportionate restrictions are placed on freedom of speech and expression and the freedom of the press.

102. Decrees which infringe freedom of assembly and association, referred to in paragraph 26 above, should be repealed.

103. The provisions of the Failed Bank Decree relating to bail should be modified so as to enable courts to grant bail in genuine and exceptional cases. The provision in the Decree which empowers imposition of liability in certain cases on persons unconnected with the banking fraud, if the primary offender absconds, should be repealed. Persons detained under this Decree should be tried expeditiously, if necessary by establishing additional courts

104. Decree 1/96 and other decrees which permit determination of rights and obligations by military tribunals, or by tribunals, which have a military presence, should be repealed.

105. Immediate measures should be adopted to eliminate the causes leading to delays in trials and to ensure prompt trial of persons in jail for long periods awaiting trial. Additional courts with a sufficient number of judges need to be established.

106. Prison conditions should be redressed as a matter of urgency. Immediat measures should be adopted to ensure that the conditions of detention fully comply with article 10 of the International Covenant on Civil and Political Rights, the Standard Minimum Rules for the Treatment of Prisoners, and the

Basic Principles for the Treatment of Prisoners. Detainees should be permitted periodic visits by members of their family and should have access to lawyers and doctors of their choice. Detainees should not be denied reading material and other basic amenities.

107. Prompt compensation should be paid to persons whose human rights have been admittedly or established to have been violated.

108. Measures should be adopted and implemented for full and equal enjoyment by women of the rights and freedoms guaranteed by the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women and their equal participation should be encouraged at all levels of the country's political, social and economic life. Laws contrary to the equal rights of women should be repealed. Urgent measures should be initiated to curtail the practices of female genital mutilation and forced marriage.

109. Urgent steps should be taken to ensure compliance with the provisions of the Convention on the Rights of the Child. Education of children, nutrition and health care should be dealt with on a top priority basis. The concerns expressed by the Committee on the Rights of the Child (see E/CN.41/1998/62, para. 81) should be immediately addressed and promptly redressed.

110. Greater attention needs to be paid to and more resources deployed for the protection and promotion of the economic and social rights of the people, especially in the field of health, shelter and education.

111. The federal and state governments should adopt effective policies, measures and programmes aimed at increasing housing and access to housing in Nigeria, especially through the provision of mortgage financing and the development of primary mortgage institutions.

112. There should be increased budgetary funding of the health sector. The Government should aid health institutions to procure modern medical equipment.

113. Effective disease prevention and management strategies should be initiated and the population properly educated about diseases such as AIDs.

114. The hardship caused by the practice of forced eviction of persons in the course of execution of developmental or community projects should be seriously addressed and steps taken to minimize this hardship by providing alternative accommodation to the affected persons.

115. Measures should promptly be initiated to alleviate the plight of the Ogoni people, including implementation of the recommendation of the Secretary-General's fact-finding mission that a committee comprised of representatives of the Ogoni community and other minority groups in the region, to be chaired by a retired judge of the High Court, be appointed for the purpose of introducing improvements in the socio-economic conditions of these communities.

116. An independent agency should be established in consultation with SPDC, MOSOP and other groups for the purpose of determining all issues relating to

environmental damage due to oil exploration and other operations, as well as issues of environmental protection. The agency should cover not only the Ogoni area but the entire Niger Delta. The findings and conclusions of such an inquiry and investigation should be made public. The SPDCs practice of providing for their security personnel the same uniform as that of the Nigerian police should be given up. SPDC should initiate more development projects in consultation with the communities concerned. An exclusive independent judicial mechanism with the mandate of early disposal of compensation claims should be established.

117. The recommendations of the Secretary-General's fact-finding mission, the Human Rights Committee as contained in its concluding observations, and the Committee on Economic, Social and Cultural Rights as contained in its concluding observations should be promptly and fully implemented.

118. The Nigerian National Human Rights Commission should be adequately resourced and its independence respected. It should be strengthened by expansion of its powers and jurisdiction to cover all cases of violations of human rights, including economic, social and cultural rights. Security of tenure should be guaranteed to the Chairperson and members of the Commission and the Commission should be encouraged in its efforts to work closely with NGOs in its activities to promote and protect human rights. Appointments of the Chairperson and the members of the Commission should be made in consultation with the Chief Justice of the Supreme Court of Nigeria. The findings and recommendations of the Commission should be generally binding upon the Government unless the Government, for reasons stated in writing and made public, declines to accept them.

119. The Government should ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Notes

1/ The Constitutional Conference was comprised of "representatives" who were elected by about 350,000 voters (while there were over 68 million qualified voters), out of a population of 120 million Nigerians. In addition to these elected members, a further one third plus "special nominees" were included by the late General Abacha.

2/ Office for the Coordination of Humanitarian Affairs of the United Nations, Integrated Regional Information Network for West Africa, update 356 on events in West Africa, 9 December 1998.

3/ "Women police - Miscellaneous conditions of service", Regulation 124, Cap. 359, Laws of the Federation 1990. See also, Beasts of Burden: A Study of Women's Legal Status and Health Rights in Nigeria, Civil Liberties Organization, 1998, p. 24.

4/ For example, a high court had upheld the right of a father to force his 19-year-old daughter to marry a person against her wish. The court said: "there is a consensus of opinion ... that a father has the right to compel his virgin daughter to marry without her consent", Beasts of Burden ..., p. 19.

5/ African Charter on Human and People's rights, article 16 (1).

6/ The 1998 health budget (less than 5 per cent of the total budget) contrasts with the 23.08 billion naira budget for defence (9.8 per cent of the total).

7/ The statistics may be much higher. At the 5th International Congress to review Nigeria's maternal mortality profile, organized by the Society of Gynaecology and Obstetrics of Nigeria, Professor Wilfried Chukwidebelu of the University of Nigeria Teaching Hospital disclosed that the maternal mortality death at that hospital from 1991 to 1997 was a staggering 1,259 per 100,000 live births, nearly a five-fold increase over the 270 per 100,000 deliveries recorded between 1976 and 1985. See The Guardian, 29 November 1998.

8/ The Minister of Health, Professor Debo Adeyemi, admits that the Government's programmes to halt the spread of AIDS have failed. The Punch, 24 November 1998, p. 32.

9/ Public statement issued by the Chief Press Secretary to the Head of State, Monday, 9 November 1998, at the Aso Rock Villa, Abuja.

10/ A panel set up under the late General Sani Abacha's administration to investigate the activities of the Cental Bank of Nigeria discovered that this money had been misused. The panel reported that the money was never paid into the account of the Central Bank, but to a dedicated account accessible only to the former Head of State, General Ibrahim Babangida, and the Governor of the Central Bank. The panel noted that the misuse of the money amounted to "a gross abuse of public trust". (Statement made by Dr. Pius Okigbo, chairman of the panel, in September 1994, during the presentation of the panel's report to the late General Sani Abacha. The report of the panel was never published and the Government never issued a white paper on the report.)